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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.**

In the Matter of

Rulemaking to Amend Parts 1, 2, 21 and 25 )  
of the Commission's Rules to Redesignate )  
the 27.5 - 29.5 GHz Frequency Band, to )  
Reallocate the 29.5 - 30.0 GHz Frequency )  
Band, to Establish Rules and Policies for )  
Local Multipoint Distribution Service and )  
for Fixed Satellite Services )

and )

Suite 12 Group Petition for Pioneer's )  
Preference )

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CC Docket No. 92-297

PP-22

**Comments of  
RioVision, Incorporated**

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**Comments of RioVision, Inc., a Texas Corporation**

RioVision, Inc., hereby files comments in response to the Third Notice of Proposed Rulemaking and Supplemental Tentative Decision ("Third NPRM") (FCC 95-287) in the above-referenced proceeding adopted by the Commission on July 13, 1995. In the Third NPRM, the Commission proposes (1) a band segmentation plan designed to allow the 28 GHz band to be shared by the Local Multipoint Distribution Service ("LMDS"), Fixed Satellite Service ("FSS") and Mobile Satellite Service ("MSS"); (2) to grant a pioneer's preference to CellularVision based on its role as the inventor and driving force of LMDS, with specific provision to accommodate CellularVision's existing commercial license authorizing service throughout the New York Primary Metropolitan Statistical Area ("PMSA"); (3) service rules for LMDS; and (4) rules for auctions of LMDS and FSS licenses.

RioVision - in its unique relationship with the University of Texas-Pan American - joins those parties who applaud the Commission's commitment to the prompt nationwide deployment of LMDS in the 28 GHz band reflected in the Third NPRM.

As the Commission is aware, RioVision and UT-Pan American have long advocated the use of LMDS for both educational and commercial purposes and have together endeavored to obtain licenses in the 28 GHz band so that LMDS can most effectively be utilized to inform, entertain and further educate the historically underserved populace of South Texas.

RioVision has consistently maintained its position that in order to be competitive with existing and entrenched cable television and telephony service providers, each LMDS operator requires a minimum of one (1) GHz of contiguous 28 GHz spectrum.

However, given the extremely contentious nature and the undue and ongoing lengthiness of this proceeding, RioVision supports the Commission's effort to design a band segmentation plan whereby the interests of each service are accommodated to the greatest possible extent.

Therefore, RioVision supports the Commission's proposals at paragraphs 47 and 59 to designate 850 MHz at 27.5-28.35 GHz to LMDS on a primary basis, and 150 MHz at 29.1-29.25 to LMDS and MSS feeder links on a co-primary basis.

RioVision further advocates that the upper 150 MHz be set aside for non-auction licensing to and use by educators in cooperation with a commercial operator in those markets where such a cooperative effort will be beneficial to all parties, where it can be shown to be in the highest public interest and where the commercial/education partnership is able to demonstrate to the Commission that it can serve to be the worthy steward of the spectrum the Commission seeks. Additionally - as the Commission considers special provisions for designated entities as they might relate to the auction process - such a cooperative arrangement as described in the preceding paragraph should be afforded such consideration as that given to small businesses, minorities and women.

With the exception of those areas where an educational entity, having demonstrated its desire and ability to utilize its 150 MHz portion of the spectrum in a cooperative venture with a commercial operator, the Commission must not license more than one operator per service area. Any further diminishing of the band would virtually assure the commercial entity of failure in its effort to compete with the existing cable television and telephony monopolists.

In the interest of brevity, RioVision respectfully requests that the Commission give careful consideration to the following additional items which are supported by RioVision:

1. That the Commission carefully weigh possible cross-ownership regulatory provisions with respect to other video and telephony providers so that entrepreneurial LMDS companies have maximum ability to provide direct competition to those providers in keeping with the Commission's long-standing policy of marketplace regulation.
2. That the Commission adopt the option as outlined in paragraph 95, whereby an LMDS licensee could choose to offer its services either as a private carrier or as a common carrier. Further, the Commission should also allow LMDS providers to elect between private carrier and common carrier status on a cell-by-cell basis or within a cell on a service-by-service basis.
3. That the Commission develop special provisions to provide designated entities with realistic opportunities to participate in the LMDS auction process to include bidding credit, installment payment and reduced upfront payment provisions more favorable than those proposed in the Third NPRM.
4. That the Commission grant prompt renewal to CellularVision's Pioneer's Preference license in the New York PMSA, that CellularVision's applications for 34 new transmitter stations be immediately granted and that CellularVision be allowed the continued use of the full 27.5-28.5 GHz bandwidth.

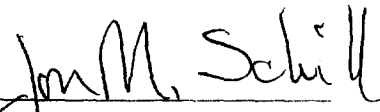
**Conclusion**

RioVision is grateful for the Commission's effort to bring this protracted proceeding to closure in a manner that will allow the prompt deployment of LMDS systems nationwide that will provide great educational, informational and entertainment benefit to the consumers of this country.

RioVision urges the adoption of rules in this matter consistent with those positions discussed in these comments and to proceed with LMDS licensing as quickly as possible.

Respectfully submitted,

RioVision, Inc.

By:   
Jon M. Schill  
RioVision, Inc.

September 5, 1995